



"Caring for California's loved ones"

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STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

July 31, 2008

Subject: THE PROFESSIONAL FIDUCIARIES ACT: ATTORNEYS AND CPAs

Attention Interested Parties of the Professional Fiduciaries Bureau:

Provided is information regarding licensing under the Professional Fiduciaries Act (Act) as it relates to California Attorneys and CPAs.

Licensing as a professional fiduciary by the Professional Fiduciaries Bureau (Bureau) is only required for those defined as a "professional fiduciary" under the Act. The definition does not include those specifically listed in Section 6501(f)(1)-(f)(5) of the Business and Professions Code and licensing does not apply to persons specified in Section 6530(b)-(d). In other words, these categories are not subject to the requirements/prohibitions of Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code of the licensing program. Therefore, they are not subject to licensing by the Bureau, and furthermore, are not subject to the prohibitions in the Act including Section 6530 (a), and Sections 60.1(b) and 2340 of the Probate Code that relate to professional fiduciaries defined in the Act.

The Professional Fiduciaries Bureau only has jurisdiction over professional fiduciaries subject to its regulations. However, the licensing laws do not speak to any other requirements that may exist, including requirements imposed by other state or local entities.

As the Act specifically relates to ATTORNEYS, pursuant to Section 6530(b), licensing does not apply to a person licensed as an attorney in California under the State Bar Act.

As the Act specifically relates to CPAs, pursuant to Section 6530(c), licensing does not apply to a person licensed as, and acting within the scope of practice of a CPA, pursuant to Chapter 1 (commencing with Section 5000) of Division 3. However, a CPA acting as a professional fiduciary within the scope of practice of his or her CPA license will be subject to the jurisdiction of the California Board of Accountancy.

If a CPA is acting as a professional fiduciary outside the scope of his or her CPA license, a license by the Professional Fiduciaries Bureau would be required.

However, there is no prohibition against any individual, who is not required to obtain a license, who would otherwise be qualified, from obtaining a license subjecting them to regulation by the Professional Fiduciaries Bureau.

Thanks
Mellonie Yang, Chief
Professional Fiduciaries Bureau